

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 JERUSALEN BARRAJAS, a single
8 man,

9 Plaintiff,

10 v.

11 TRAVELERS HOME AND MARINE
12 INSURANCE COMPANY, doing
business in Grant County,

13 Defendant.

CASE NO.: 2:16-CV-0432-TOR

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

14
15 BEFORE THE COURT is Plaintiff's Motion for Reconsideration of Order
16 Granting Defendant's Rule 12 Partial Motion to Dismiss. ECF No. 13. This
17 matter was set for consideration without oral argument for April 10, 2017. The
18 Court has reviewed the briefing and record herein, and is fully informed.

19 //

20 //

BACKGROUND

On March 1, 2017, the Court entered an Order Granting Defendant's Partial Motion to Dismiss related to Plaintiff's claim that Defendant violated the Washington Insurance Fair Conduct Act ("IFCA") (RCW 48.30.015) and the Washington Law Against Discrimination ("WLAD") (RCW 49.60 *et seq.*). ECF Nos. 12, 1-2 at ¶¶ 3.7, 3.9-3.10. Because Plaintiff did not substantially comply with IFCA's statutory notice requirement, the Court dismissed Plaintiff's IFCA claim without prejudice.¹ *Id.* at 8. The Court also dismissed Plaintiff's WLAD claim without prejudice because Plaintiff failed to plead sufficient facts. *Id.* at 10-11.

Nevertheless, the Court granted Plaintiff "leave to file an amended complaint (with Plaintiff's name spelled correctly) within thirty (30) days." ECF No. 12 at 13. Plaintiff timely filed an Amended Complaint on March 17, 2017, and again on March 28, 2017. ECF Nos. 16, 18 (continuing to misspell Plaintiff's name). Plaintiff also filed a Notice of Washington State Constitutional Question Related to RCW 48.30.015 on March 8, 2017, *see* ECF No. 14, which the Court

¹ The Court declined to consider Plaintiff's constitutional arguments challenging the IFCA notice requirement (RCW 48.30.015(8)) because Plaintiff failed to observe the requirements of making a constitutional challenge. ECF No. 12 at 6-7.

1 certified to the Washington Attorney General for consideration on March 9, 2017,
2 *see* ECF No. 15.

3 Plaintiff now moves for reconsideration of the Court's Order Granting
4 Defendant's Partial Motion to Dismiss. ECF No. 12.

5 **DISCUSSION**

6 "[A] motion for reconsideration should not be granted, absent highly unusual
7 circumstances, unless the district court is presented with newly discovered
8 evidence, committed clear error, or if there is an intervening change in the
9 controlling law." *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir.
10 1999) (citation omitted). "Whether or not to grant reconsideration is committed to
11 the sound discretion of the court." *Navajo Nation v. Confederated Tribes and*
12 *Bands of the Yakama Indian Nation*, 331 F.3d 1041, 1046 (9th Cir. 2003).

13 The Court finds reconsideration is not warranted. Although Plaintiff has
14 finally complied with the requirements of making a constitutional challenge,
15 Plaintiff has failed to show anything more than a disagreement with the Court's
16 decision. ECF No. 13 at 4. Moreover, Plaintiff failed to demonstrate any new
17 evidence, an intervening change in law, or that the Court committed clear error to
18 warrant reconsideration. *389 Orange St. Partners*, 179 F.3d at 665. Indeed,

1 Plaintiff merely “ask[s] the court to reconsider” its decision and to certify the IFCA
2 constitutional question to the Washington State Supreme Court.² *Id.*

3 Plaintiff has failed to demonstrate any reason that justifies reconsideration.
4 *See Navajo Nation*, 331 F.3d at 1046. Accordingly, Plaintiff’s motion is denied
5 and the Court’s previous order stands.

6 **ACCORDINGLY, IT IS HEREBY ORDERED:**

7 1. Plaintiff’s Motion for Reconsideration of Order Granting Defendant’s
8 Partial Motion to Dismiss (ECF No. 13) is **DENIED**.

9 The District Court Executive is directed to enter this Order and furnish
10 copies to the parties.

11 DATED: April 27, 2017.



15
16
17
18
19
20

A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge

2 The Court—in exercising its unfettered discretion—declines to certify to the
Washington Supreme Court the question of whether IFCA’s statutory notice
requirement is unconstitutional. *See Lehman Bros. v. Schein*, 416 U.S. 386, 390–
91 (1974) (“Resort to certification is not mandatory where state law is unclear on a
particular issue.”); RCW 2.60.020 (stating that federal courts *may* elect to certify).